

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARTIN LEE FOSTER,

Plaintiff,

v.

ANN MARIE SCHUBERT, et al.,

Defendants.

No. 2:22-cv-01665-DAD-CKD (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION DUE TO PLAINTIFF'S FAILURE
TO PROSECUTE

(Doc. No. 5)

Plaintiff Martin Lee Foster is a former county jail inmate proceeding *pro se* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 27, 2022, the court directed plaintiff to either file an application to proceed *in forma pauperis* or pay the required \$402.00 filing fee in order to proceed with this action. (Doc. No. 4.) The service copy of that order was mailed to plaintiff at his address of record and was returned to the court marked as “Undeliverable, Not in Custody.” Thus, plaintiff was required to file a notice of his change of address with the court no later than December 19, 2022. To date, plaintiff has not filed a notice of his change of address or otherwise communicated with the court. Plaintiff also did not file an application to proceed *in forma pauperis* nor pay the required filing fee.

1 Accordingly, on December 23, 2022, the assigned magistrate judge issued findings and
2 recommendations recommending that this action be dismissed, without prejudice, due to
3 plaintiff's failure to prosecute this action. (Doc. No. 5.) The pending findings and
4 recommendations were served on plaintiff at his address of record and contained notice that any
5 objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 1–2.) To date,
6 no objections to the findings and recommendations have been filed, and the time in which to do
7 so has now passed.¹

8 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
9 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
10 findings and recommendations are supported by the record and by proper analysis.

11 Accordingly:

- 12 1. The findings and recommendations issued on December 23, 2022 (Doc. No. 5) are
13 adopted in full;
- 14 2. This action is dismissed, without prejudice, due to plaintiff's failure to prosecute
15 this action; and
- 16 3. The Clerk of the Court is directed to close this case.

17 IT IS SO ORDERED.

18 Dated: February 12, 2023

19 
UNITED STATES DISTRICT JUDGE

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28 ¹ The service copy of the findings and recommendations, which was mailed to plaintiff at his
address of record, was also returned to the court marked as “Undeliverable.”